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Annual Privatization Report 2010: Corrections

By Leonard Gilroy and Harris Kenny
Edited by Leonard Gilroy

Reason Foundation

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Part 1

Corrections Partnerships in 2010

Since the emergence of corrections public-private partnerships (PPPs) in the early 1980s, governments at all levels have increasingly partnered with private sector correctional services providers to finance, design, build and/or operate correctional facilities to deliver a wide array of correctional services. Private management of prisons generally takes two basic forms. One is standard contract operation, whereby a private management firm is hired to run a government prison. The other is contracting for bed space to house prisoners, either at in-state or out-of-state privately owned correctional facilities.

Similar to PPPs in other areas of government-provided services, partnerships in corrections can be used in a variety of ways, including the financing and construction of new correctional facilities, contracts for private prison beds to relieve inmate overcrowding and the delivery of an array of services (e.g., health care, food services, transportation, etc.) that reduces corrections costs for struggling budgets.

The use of corrections PPPs has grown significantly over the past decade. According to the most recent census of state and local correctional facilities undertaken by the U.S. Department of Justice's Bureau of Justice Statistics in 2005 (and published in 2008), the number of privately operated prisons and community corrections facilities rose 51%, from 264 in 2000 to 415 in 2005.

The number of federal and state prisoners held in private facilities has also increased significantly this decade, as shown in Table 1. At the federal level, the total prison population rose from 145,416 in 2000 to 208,118 in 2009, an increase of approximately 43%. However, the number of federal prisoners housed in private facilities has risen by nearly 120% over that same period (from 15,524 in 2000 to 34,087 in 2009), far outpacing the growth rate of government-run facilities. Accordingly, the share of federal prisoners housed in private prisons increased from 10.7% in 2000 to 16.4% in 2009.

At the state level, the share of offenders held in private facilities has also increased since 2000. The total state prison population rose from 1,245,845 in 2000 to 1,405,622 in 2009, an increase of nearly 13%. The number of those state prisoners housed in private facilities rose from 71,845 in 2000 to 95,249 in 2009 over that same time period, a nearly 33% increase. Overall, the share of state prisoners housed in private prisons increased slightly from 5.8% in 2000 to 6.8% in 2009.

Taken together, the total federal and state prison population increased by 16% from 2000 to 2009, rising from 1.39 million to 1.61 million (see Table 2). By comparison, the federal and state inmate population housed in private facilities increased by 48% over the same time period and now account for approximately 8% of the total prison population. While these data certainly reflect an increasing reliance on corrections PPPs by federal and state officials this decade, the vast majority of inmates—over 91%—continue to be housed in government-run prisons.

Table 1: Federal and State Prison Population in Private Facilities (2000–2009)

Year	Total Federal Prison Population	Federal Population in Private Facilities	% Federal Population in Private Facilities	Total State Prison Population	State Population in Private Facilities	% State Population in Private Facilities
2000	145,416	15,524	10.7%	1,245,845	71,845	5.8%
2001	156,993	19,251	12.3%	1,247,039	72,577	5.8%
2002	163,528	20,274	12.4%	1,276,616	73,638	5.8%
2003	173,059	21,865	12.6%	1,295,542	73,842	5.7%
2004	180,328	24,768	13.7%	1,316,772	73,860	5.6%
2005	187,618	27,046	14.4%	1,340,311	80,894	6.0%
2006	193,046	27,726	14.4%	1,376,899	85,971	6.2%
2007	199,618	31,310	15.7%	1,398,627	92,632	6.6%
2008	201,280	33,162	16.5%	1,408,479	96,320	6.8%
2009	208,118	34,087	16.4%	1,405,622	95,249	6.8%

Source: U.S. Department of Justice, Bureau of Justice Statistics.

Table 2: Growth in Federal and State Use of Private Prisons (2000–2009)

Year	Total Federal and State Prison Population	Federal and State Population in Private Facilities	% Federal and State Population in Private Facilities
2000	1,391,261	87,369	6.3%
2001	1,404,032	91,828	6.5%
2002	1,440,144	93,912	6.5%
2003	1,468,601	95,707	6.5%
2004	1,497,100	98,628	6.6%
2005	1,527,929	107,940	7.1%
2006	1,569,945	113,697	7.2%
2007	1,598,245	123,942	7.8%
2008	1,609,759	129,482	8.0%
2009	1,613,740	129,336	8.0%

Source: U.S. Department of Justice, Bureau of Justice Statistics.

State usage of corrections PPPs varies considerably, as shown in Table 3. Some states have large numbers of their inmate populations in privately operated facilities—including New Mexico (43%), Montana (39%), and Vermont (30%)—while other states only have a minimum number of inmates in private facilities, including Washington (0.7%), Maryland (0.5%), North Carolina

(0.5%) and South Dakota (0.4%). Notably, California's dramatic ramp up in the use of out-of-state private prisons since 2009 increased that state's estimated privatization rate from 1.3% to 10.4% in just one year (see discussion in Part 4 of this report). Overall, Figure 1 shows that the use of corrections PPPs spans all parts of the country, though there is significant concentration in the Southeast and West.

Table 3: Estimated 2010 State Correctional Privatization

	Total Inmates (2009)	Inmates in Private Facilities (2009)	Adjustments for 2010 Announced Contracts	Estimated Inmates in Private Facilities (2010)	Estimated Privatization Rate (2010)
Alabama	31,874	883		883	2.8%
Alaska	5,285	1,626		1,626	30.8%
Arizona	40,627	8,971		8,971	22.1%
Arkansas	15,208	0		0	0.0%
California	171,275	2,316	15,424	17,740	10.4%
Colorado	22,795	4,957		4,957	21.7%
Connecticut	19,716	885		885	4.5%
Delaware	6,794	0		0	0.0%
Florida	103,915	9,812	2,000	11,812	11.4%
Georgia	53,371	5,129	2,650	7,779	14.6%
Hawaii	5,891	1,648		1,648	28.0%
Idaho	7,400	2,066		2,066	27.9%
Illinois	45,161	0		0	0.0%
Indiana	28,808	2,479	1,566	4,045	14.0%
Iowa	8,813	0		0	0.0%
Kansas	8,641	0		0	0.0%
Kentucky	21,638	2,491		2,491	11.5%
Louisiana	39,780	2,922		2,922	7.3%
Maine	2,206	0		0	0.0%
Maryland	22,255	104		104	0.5%
Massachusetts	11,316	0		0	0.0%
Michigan	45,478	0		0	0.0%
Minnesota	9,986	191		191	1.9%
Mississippi	21,482	5,286		5,286	24.6%
Missouri	30,563	0		0	0.0%
Montana	3,605	1,434		1,434	39.8%
Nebraska	4,474	0		0	0.0%
Nevada	12,482	0		0	0.0%
New Hampshire	2,731	0		0	0.0%
New Jersey	25,382	2,950		2,950	11.6%
New Mexico	6,519	2,825		2,825	43.3%
New York	58,687	0		0	0.0%
North Carolina	39,860	217		217	0.5%
North Dakota	1,486	0		0	0.0%

Table 3: Estimated 2010 State Correctional Privatization					
	Total Inmates (2009)	Inmates in Private Facilities (2009)	Adjustments for 2010 Announced Contracts	Estimated Inmates in Private Facilities (2010)	Estimated Privatization Rate (2010)
Ohio	51,606	2,195		2,195	4.3%
Oklahoma	26,397	5,989		5,989	22.7%
Oregon	14,403	0		0	0.0%
Pennsylvania	51,429	920		920	1.8%
Rhode Island	3,674	0		0	0.0%
South Carolina	24,288	14		14	0.1%
South Dakota	3,434	13		13	0.4%
Tennessee	26,965	5,108		5,108	18.9%
Texas	171,249	19,207		19,207	11.2%
Utah	6,533	0		0	0.0%
Vermont	2,220	668		668	30.1%
Virginia	38,092	1,575		1,575	4.1%
Washington	18,233	124		124	0.7%
West Virginia	6,367	0		0	0.0%
Wisconsin	23,153	17		17	0.1%
Wyoming	2,075	227		227	10.9%
TOTAL	**1,405,622**	**95,249**	**21,640**	**116,889**	**8.3%**

Sources:

Total Inmates (2009): U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2009,* p. 16.

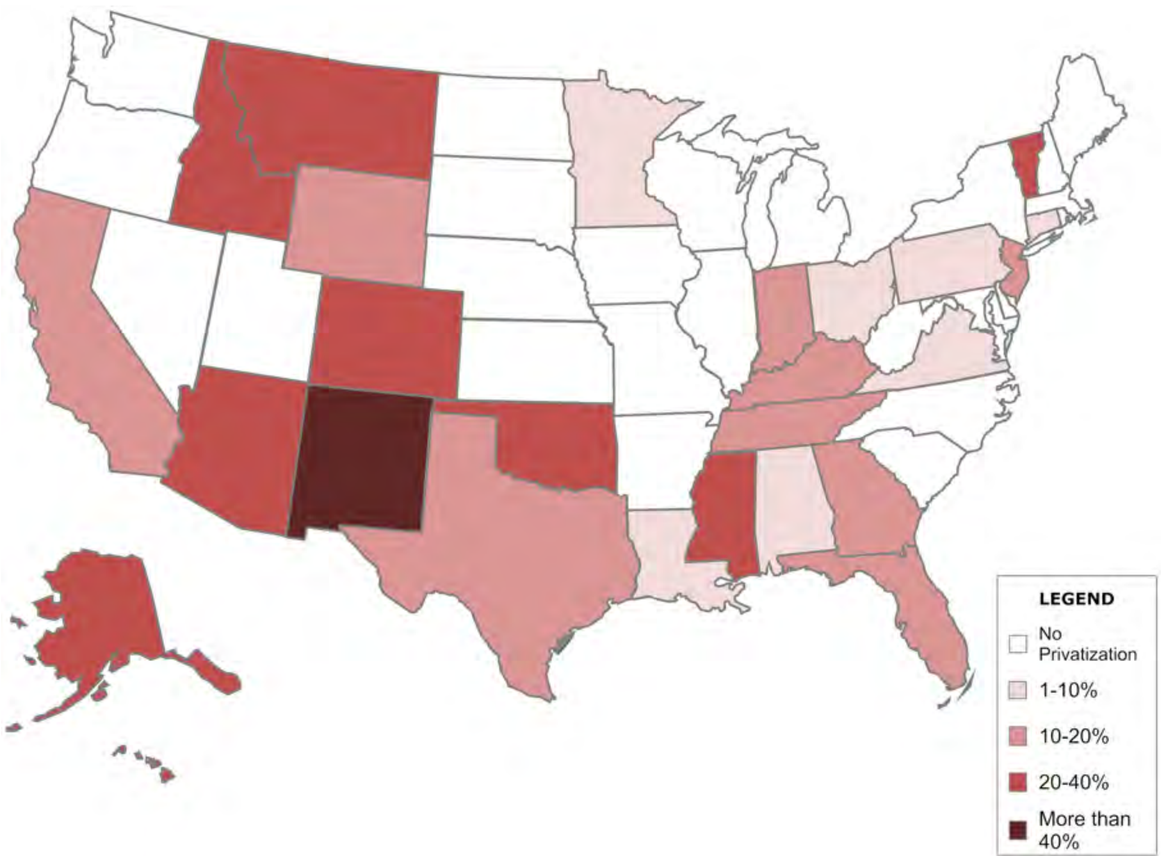
Inmates in Private Facilities (2009): U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2009*, p. 34.

Adjustments for 2010 Announced Contracts: Author's adjustments to 2009 data based on announcements of private prison activations and new management contracts in Indiana, Florida, Georgia and California.

Estimated Inmates in Private Facilities (2010) is the sum of Inmates in Private Facilities (2009) and Adjustments for 2010 Announced Contracts.

Estimated Privatization Rate (2010): Estimated Inmates in Private Facilities (2010) divided by Total Inmates.

Figure 1: Comparison of State Correctional Privatization (2010)



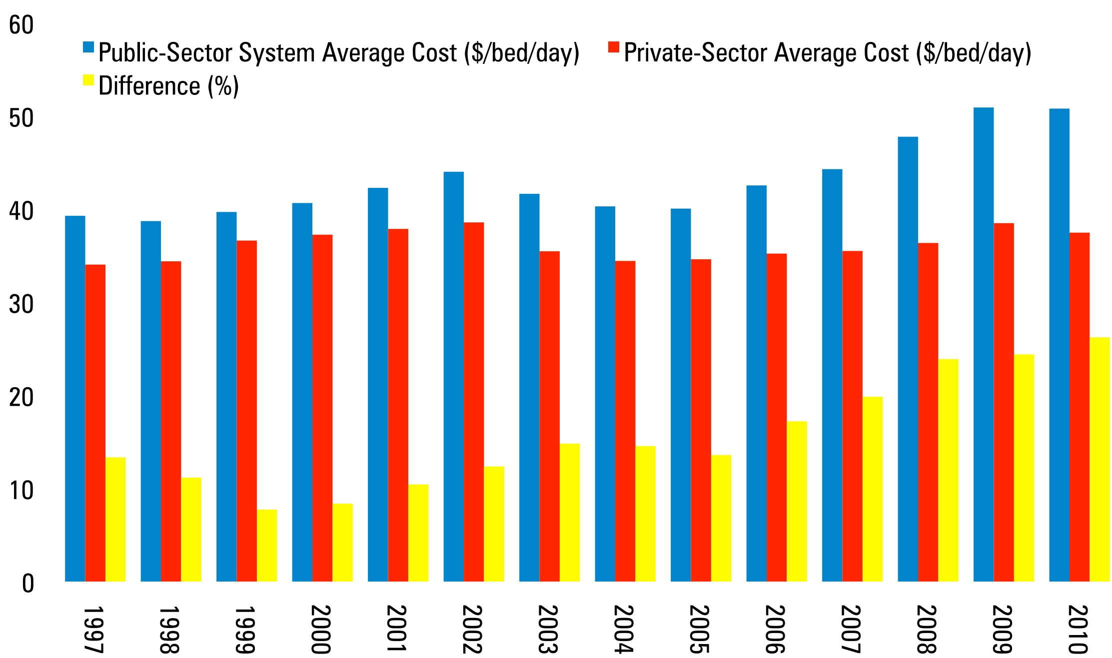
Source: Author's calculation based on 2009 data from U.S. Department of Justice, Bureau of Justice Statistics, Prisoners in 2009 Report, http://bjs.ojp.usdoj.gov/content/pub/pdf/p09.pdf (accessed December 27, 2010). 2009 state private prison population data were adjusted to reflect announcements of private prison activations and new private prison contracts in 2010 in the states of California, Florida, Georgia and Indiana.

Part 2

Corrections PPPs Bring Major Savings in Texas, Florida

Both Texas and Florida offer compelling evidence for the cost savings possible through corrections public-private partnerships (PPPs). The Texas Legislative Budget Board's (LBB) biannual cost comparison study of public and private sector prison operations offers long-term trend data demonstrating that average per-diem costs in state-run prisons have ranged been between 7% to 26% higher than the average costs of private facility operation since 1997, or approximately 15% per year on average (see Figure 2). According to the LBB analysis, the average daily cost of operation in privately operated prisons has never exceeded the average costs in government-run prisons since 1997.

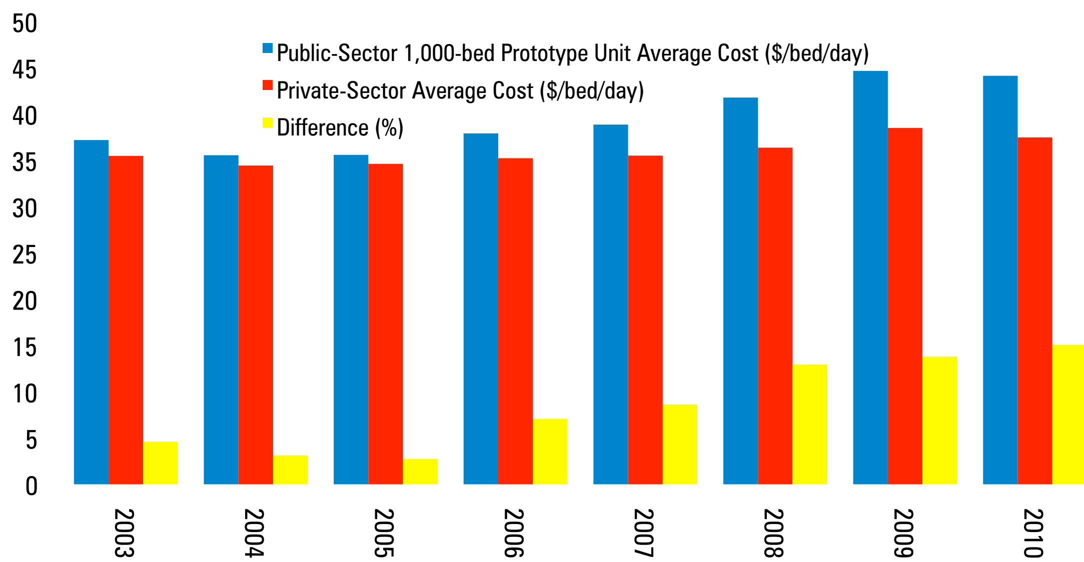
Figure 2. State of Texas: Average Per-Diems in Government and Privately Operated Prisons (1997–2010)



Source: 1997–2002 data: Texas Criminal Justice Policy Council. 2003–2010 data: Texas Legislative Budget Board, *Criminal Justice Uniform Cost Report*, various editions.

To move beyond simply reporting average public and private sector costs across the system, since 2003 the LBB reports have also included a more detailed cost breakdown comparing the average private prison per-diem cost with the benchmark per-diem cost of a 1,000-bed prototype, state-run facility, since this would be the most comparable comparator to private prisons based on facility size, structure, and the custody levels of housed offenders. At this more finely grained level of analysis, the LBB reports have shown that the per diem costs in privately operated prisons have ranged between 3% to 15% lower than the per-diem costs in comparable state-run facilities since 2003 (see Figure 3). In recent years, this differential has steadily increased from 7% in 2006 to over 15% in 2010, averaging an 11% annual cost savings over that five-year period. In 2010, operating costs per inmate per day in public and private sector prisons were $44.12 and $37.47, respectively, representing cost savings of over 15% that year in PPP facilities.

Figure 3. State of Texas Per-Diem Comparison:
State-Operated 1,000-Bed Prototype Unit vs. Privately Operated Facilities (2003–2010)



Source: Texas Legislative Budget Board, *Criminal Justice Uniform Cost Report*, various editions.

A large-scale correctional PPP procurement in Florida in 2010 offers another powerful example of the cost savings achievable through PPPs. Under Florida law, the privatization of prison operations cannot be approved without a minimum cost savings threshold of 7%, which has been consistently met by private prison operators since the 1990s and has been validated and verified by the state.

In 2010, the Florida Department of Management Services (FDMS) entered into an "invitation to negotiate" (ITN) process to award contracts for the private management and operation of four state prisons—the 985-bed Bay Correctional Facility, the 1,520-bed Gadsden Correctional Facility, the 1884-bed Graceville Correctional Facility, and the 985-bed Moore Haven Correctional Facility. During the procurement process, FDMS assembled a team of in-house and corrections department experts to conduct a cost comparison that established a benchmark per diem for each facility based on what it would cost the state to operate them.

For private bids to be considered compliant, they had to beat the benchmark state per diems at each facility by at least 7%. As shown in Table 4, the winning bids at each facility came in at cost savings levels ranging between 14% and 27%. Taken together, these private facilities will therefore be operated at an annual cost savings of $19.8 million, or more than $59.5 million over the three-year term of the contracts.

Table 4: 2010 Florida Correctional Procurement Cost Comparison Summary

Facility	# of Beds	Comparable State Per Diem Cost	Private Operator Per Diem Cost	% Cost Savings	Annual Cost Savings	3-Year Cost Savings
Bay Correctional Facility	985	$57.52	$48.05	16%	$3,404,702	$10,214,105
Gadsden Correctional Facility	1,520	$54.85	$45.97	16%	$4,926,624	$14,779,872
Graceville Correctional Facility	1,884	$47.02	$34.37	27%	$8,698,899	$26,096,697
Moore Haven Correctional Facility	985	$56.19	$48.36	14%	$2,815,081	$8,445,242
				TOTAL	$19,845,306	$59,535,917

Source: Florida Department of Management Services, Memorandum by Negotiation Team (ITN# 09/10-017) to DMS Secretary Linda South ("Recommendation of Award"), April 13, 2010, available at http://tinyurl.com/4ftejs7
Additional information related to this procurement is available here: http://tinyurl.com/4b6yhol

Other notable research on cost savings through correctional PPPs include these studies:

- A 2002 Reason Foundation study reviewed 28 academic and government studies on corrections PPPs and found that private corrections companies saved up to 23% in daily operating costs over comparable government-run systems. The studies reviewed support a conservative estimate that private facilities offer cost savings of between 10% and 15% over their public sector counterparts.
- A 2009 Avondale Partners survey of 30 state correctional agencies found that in states currently using private sector services, the average daily savings for partnership prisons was 28%.
- A December 2008 Vanderbilt University study found that states that contracted with private corrections companies significantly reduced their overall prison expenditures compared to states that did not. According to researcher James Blumstein, "The fundamental conclusion is that, over that six-year period, states that had some of their prisoners in privately owned or operated prisons experienced lower rates of growth in the cost of housing their public prisoners—savings in addition to direct cost savings from using the private sector." In addition to saving money at privately operated prisons, the study found that public facilities that remain under state operation also had reduced costs, a likely result of competition.

Part 3

State Spotlight: Arizona

With several large-scale privatization proposals and a high-profile escape from a privately operated prison generating national headlines, correctional privatization remained a major issue in Arizona in 2010.

As reported in Reason Foundation's *Annual Privatization Report 2009*, the state's ongoing fiscal crisis prompted lawmakers to consider—and ultimately weave into the FY2010 budget—an unprecedented, large-scale privatization proposal in June 2009 requiring the state to solicit bids for a long-term concession agreement allowing private vendors to operate one or more Arizona state prison facilities for a 50-year term in exchange for an upfront payment of no less than $100 million. The $100 million payment was designed to effectively monetize in advance a portion of the private operator's projected cost savings over a multi-decade term, though in effect it represented a loan to the state.

Though the proposal generated national hype and headlines—"Arizona Selling Off Prison System" was a recurring theme in major newspapers and talk shows—the scope of the proposal was exaggerated from the start, and it ultimately failed to materialize. The ultimate proposal only allowed bids for Arizona prisons that do not hold maximum-security or close custody inmates, leaving only two state prisons in Safford and Douglas actually eligible for privatization. In February 2010, the Arizona Department of Corrections (ADOC) issued a request for information to potential bidders for these two facilities, but private corrections management firms and investors failed to demonstrate any interest in the plan, likely due to the large initial capital outlay required and perceived risks associated with the tenuous plan. The statutory language related to the concession proposal was subsequently repealed by policymakers in March 2010.

In an April 2010 letter, ADOC Director Charles Ryan updated department employees on the outcome, noting that "[b]ased upon the responses to the RFI, [ADOC] concluded that privatization was not feasible […] Had the law not been repealed [ADOC] would have advocated against moving forward with the request for proposal process."

The cancellation of the prison concession procurement did not preclude ADOC from advancing another major procurement, however. The same legislation that originally authorized the lease of existing prisons also included provisions directing ADOC to issue a separate procurement for 5,000 beds in new, privately financed, privately operated prisons. ADOC initiated this procurement in early 2010, which involved the agency soliciting private proposals for a 20-year contract to deliver 5,000 beds of new prison capacity for male inmates. Bidders were allowed to submit proposals for up to 5,000 beds in one or more facilities, with minimum increments of 500 beds. ADOC ultimately received bids in May 2010 from four firms—Corrections Corporation of America (CCA), The GEO Group (GEO), Management & Training Corporation (MTC) and Emerald Correctional Management.

However, the 5,000 bed procurement was subsequently cancelled in the wake of the July 2010 escape of three inmates from Arizona State Prison-Kingman, a 3,200-bed, medium-security prison operated by MTC. The three inmates and an accomplice were all subsequently captured, but only after a prolonged, national manhunt during which fugitives reportedly murdered a couple in New Mexico. In the wake of the high-profile escape, ADOC ended inmate transfers to the facility and initiated several reviews of prison operations at that facility and the agency's larger system of managing private corrections contracts.

Both the public and private partners responded immediately. The warden and chief of security of the Kingman facility resigned from MTC in early August, ADOC fired its deputy warden responsible for monitoring contract compliance at the facility, and the ADOC operations director overseeing private prison contracts resigned. The agency and MTC also made major adjustments in operational oversight to prevent future security lapses. MTC also reassigned and retrained a number of staff at the Kingman facility, and ADOC ordered the company to increase perimeter patrols, improve the controlled movement of prisoners in the facility and implement a variety of other operational changes.

In late August, ADOC Director Charles Ryan released the results of a comprehensive security assessment of the Kingman facility that found a series of problems including inadequate patrols and prisoner movement, excessive false alarms, a lax culture and inconsistencies in visitor screening procedures. "This is a terrible tragedy, and the department and the contractor have a lot of work to do," Ryan said at a press conference announcing the report. For its part, MTC's senior vice president told the *Arizona Republic* in August that "[t]here is no way we can explain (the escape) away […] It should not have happened, regardless of the conditions at the facility." Upon issuance of the security report, Ryan warned MTC that failure to comply with new departmental security standards would result in the loss of the state contract to operate the prison.

However, Ryan also noted that ADOC's own audit team failed to identify the contractor's shortcomings in its regular annual facility audits. A review of past annual ADOC audits of the Kingman facility by the *Arizona Republic* in August found that auditors had identified various problems with the facility's security system each year since it opened in 2004, but that MTC had addressed the identified areas of non-compliance after each audit. In fact, prior to the escape, the 2010 ADOC audit of the Kingman prison found only three minor areas of non-compliance in security.

A separate September report from an internal ADOC investigation highlighted additional gaps in the department's oversight of contractors. For example, the fired ADOC deputy warden was described as inattentive and inadequately trained, admitting to investigators that he had not actually read the entire contract with MTC he was supposed to be monitoring. Further, the review found that the department's facility inspections were infrequent and failed to catch key operational problems.

The incident also invited scrutiny of ADOC's prisoner risk ratings system, which allowed ADOC to move the three escapees—two convicted murderers and one convicted of armed robbery and attempted murder—to the medium-security Kingman facility. The state uses a five-point scale to assess inmate risk and assign custody levels, but an individual's classification can later be adjusted based on his behavior in custody. ADOC estimates that over 1,400 inmates convicted of murder are housed in Arizona's medium-security prisons, public and private—including nearly 800 inmates sentenced to life with no possibility of parole. However, department officials note that many state correctional systems house inmates sentenced to life in medium-security prisons.

In the wake of the Kingman escape and the subsequent flaws exposed on both the public and private sides, Ryan announced in September that he planned to dramatically overhaul ADOC's system for monitoring private prisons. Among the changes, ADOC plans to have more seasoned employees conduct facility inspections and will shift to ongoing evaluations rather than annual reviews. Ryan also announced that the RFP for 5,000 new private prison beds would be put on hold, to be restarted after ADOC finalized revisions to its internal private prison oversight plans.

ADOC's revised policies for future private prison RFPs and contracts include better proposal evaluation criteria, the annual re-certification of security systems, additional monetary offset provisions and sanctions, better performance audit procedures, and more stringent performance measurement and reporting requirements, according to *Correctional News*.

ADOC subsequently reissued the 5,000-bed RFP in late January 2011—incorporating the revised policies—asking bidders to submit proposals the following month that would deliver at least 2,000 beds by April 2013 and an additional 3,000 beds by April 2015. ADOC also made state-owned, undeveloped land within existing prison complexes in Florence, Buckeye, Litchfield Park and Yuma an option for private bidders to propose incorporating into their bids.

In other Arizona correctional privatization news:

- Pursuant to a legislative directive, ADOC issued an RFP to solicit private bids on taking over the department's entire delivery of correctional healthcare services. ADOC received several proposals from correctional healthcare providers, but the procurement stalled in the wake of the Kingman prison escape. At press time, ADOC was still reviewing the bids.

- In early 2010, budget cuts prompted state officials to terminate two contracts with CCA to house over 2,000 Arizona inmates in out-of-state private prisons, bringing these inmates back to in-state ADOC facilities. The moves led to the shuttering of the 752-bed Huerfano County Correctional Center in Colorado and the 2,160-bed Diamondback Correctional Facility in Watonga, Oklahoma as CCA seeks new contracts for the facilities.

- CCA recently settled a lawsuit filed by *Prison Legal News*, which claimed that CCA's Saguaro Correctional Center in Eloy only allowed prisoners to receive books from Amazon.com or Barnes & Noble, preventing them from receiving books from *Prison Legal News*, violating inmates' constitutional rights. CCA revised its mail policy soon after the lawsuit was filed.

Part 4

State Spotlight: California

California's ongoing corrections crisis—the result of severe overcrowding that led Gov. Arnold Schwarzenegger to declare a state of emergency in corrections that has remained in place since 2006—has prompted state policymakers to dramatically increase their use of private prisons since 2009 as part of a larger strategy to reduce overcrowding and drive down the costs of corrections.

In 2009, California held nearly 150,000 inmates in a system of state prisons designed for only 84,000 prisoners, representing utilization at 178% of design capacity, far in excess of the national average of 110% among states. Accordingly, California's prison system is severely overcrowded, filled to nearly double the capacity it was designed for. Instead of prison cells, it's common to see inmates double and triple-bunked in hastily converted open gymnasiums in California prisons today. Further, the state's ongoing budget crisis demands immediate attention to reduce the unsustainable costs of existing operations, as annual spending per inmate in California is over 50% higher than the national average. The state's high spending does not appear to be producing better results, as recidivism rates in California have for years held steady at over 60%.

The state's corrections crisis came to a head in August 2009, when a three-judge federal district court ruled that conditions in the state's prisons are so deplorable that the state must devise a plan to release over 40,000 prisoners to relieve overcrowding and maintain a basic quality of life for the prisoners behind bars. The state initially fought this order by challenging the legality of the three-judge court. This challenge was rejected by the U.S. Supreme Court, which found the three-judge court was established legally. Governor Schwarzenegger then filed a separate suit—accepted by the Supreme Court—to dispute the specific federal court order to reduce inmate population. The suit, *Schwarzenegger v. Plata* (U.S Supreme Court Docket No. 09-1233), addresses the following issues:

- whether the three-judge court has jurisdiction to issue an order releasing inmates from state prisons;
- if the three-judge court did have legal jurisdiction to issue the release order, was release the only viable option for ensuring the adequate delivery of physical and mental health services to California inmates without adversely affecting public safety?

Given the federalism concerns at the heart of California's legal challenge, the attorneys general of Louisiana and 17 other states filed an amicus brief in *Plata* supporting California's argument that the three-judge court lacks proper jurisdiction and that a large-scale, federally mandated prison release would have detrimental effects on public welfare. The U.S. Supreme Court heard oral arguments in *Plata* in November 2010; at press time, the Court had not released a decision.

Regardless of the legal outcome, the Schwarzenegger administration has already taken proactive steps toward reducing the state's prison population by transferring inmates to out-of-state, privately operated prisons. As of early 2010, the state had transferred approximately 5,000 inmates out of state, a total that expanded to over 15,000 by the end of the year after the Schwarzenegger administration announced a new series of contracts for out-of-state inmate transfers. The final transfer contracts announced in November 2010 included 5,800 inmates. According to the *San Francisco Chronicle*, 2,580 of those inmates will be transferred to a facility in Michigan managed by The GEO Group, with the remainder transferred to prisons managed by CCA in Colorado and Minnesota.

These out-of-state inmate transfers are in line with the policy recommendations from a April 2010 Reason Foundation and Howard Jarvis Taxpayers Association study entitled, *Public-Private Partnerships for Corrections in California*. It recommended soliciting and implementing PPPs to address the state's need for more prison beds by transferring 25,000 low- to medium-security inmates to out-of-state facilities over a five-year period (5,000 per year) to save up to $1.7 billion relative to state operation.

In other California corrections news:

- In July 2010, GEO was awarded a contract by the California Department of Corrections and Rehabilitation (CDCR) to house female inmates in the 200-bed McFarland Community Correctional Facility in McFarland, California. The five-year contract includes one five-year renewal option period.

- GEO also announced in 2010 that it had acquired a 650-bed facility in Adelanto, California for approximately $28 million, purchased from the city of Adelanto. The company is now in the process of retrofitting the facility and is expected to market the facility to either CDCR or the federal government. Adelanto City Manager Jim Hart told *The Daily Press* that the city has proposed constructing a second facility beside the existing prison, which if it receives state approval in mid-2011, would be complete in 18–24 months. Hart said the city would consider long-term bonds or private financing to construct the newly proposed facility.

- In 2010, California enacted a new medical parole law (SB 1399) that will allow inmates in a vegetative state to be transferred to less costly private facilities for an estimated savings of $100–200 million annually. *The Sacramento Bee* reported in September 2010 that the six-month cost for a prisoner in a persistent vegetative state is nearly $1 million annually, which includes roughly $421,000 for correctional medical care and over $410,000 for "triple guarding", where three guards are required to watch the inmate, as dictated in union contracts with the state. The bill also transfers medical coverage from a state responsibility to a state-federal responsibility under Medi-Cal, the state's Medicaid program. Further, no "third-striker", death-row inmate or anyone sentenced to life without parole would be eligible for medical parole release under the law. In other news, the 4th District Court of Appeal ruled that private prisons must offer medical care for inmates' babies, stating that any portions of contracts with the state that claimed otherwise were unconstitutional.

Part 5

State Spotlight: Florida

Florida was an active state for corrections PPPs in 2010. Amid budget negotiations in April 2010, Florida legislative leaders agreed on a plan to reduce state prison beds and eliminate more than 300 mostly vacant positions in the Florida Department of Corrections (FDOC) by opening a new privately operated prison in Santa Rosa County.

Lawmakers agreed to open the 2,000-bed Blackwater River Correctional Institution in Milton—a new, $113 million facility built for the state by GEO in 2008 that had yet to be opened—while avoiding the closure of any state-run prisons or FDOC job losses as a result. Instead, FDOC will close various prison units and implement other efficiency strategies to reduce expenditures. The agreement was a compromise between Senate Ways and Means Chairman J.D. Alexander and Senate President Jeff Atwater; Alexander had originally proposed a plan to open the Blackwater facility that would have closed up to five state prisons.

In May 2010, GEO announced that it had signed a contract with the Florida Department of Management Services (FDMS) to manage the new Blackwater facility. The facility opened and began to take inmates in November 2010, and it will house medium and close custody security adult male inmates with a minimum occupancy guarantee of 90%. The original contract award had projected that the majority of the prison's inmates would require chronic medical and mental health treatment, but the state opted to revise the contract to reflect a population mix requiring less costly medical and mental health services as a result of ongoing state budget pressures. The facility is expected to bring approximately 350 jobs to Santa Rosa County.

In addition to the Blackwater facility, FDMS officials announced the results of another major correctional procurement in April 2010, when it awarded CCA management contracts at two privately operated Florida facilities, the 985-bed Moore Haven Correctional Facility in Moore Haven, Florida and the 1,884-bed Graceville Correctional Facility in Graceville, Florida. These two facilities had previously been operated by GEO, and upon expiration the contracts were re-bid. Private management contracts at two other facilities were also re-bid alongside the Moore Haven and Graceville facilities. FDMS also continued CCA's contract to manage the 985-bed Bay Correctional Facility in Panama City, but selected MTC to operate the 1,520-bed Gadsden Correctional Institution, a female prison formerly managed under a contract with CCA. Under the re-bid contracts, all the privately managed facilities will continue to be owned by the state of

Florida and the contracts cover a term of three years, with the possibility of up to two additional 2-year renewal options.

Corrections PPPs should remain a hot topic in Florida in 2011 as policymakers work to close a budget deficit in excess of $3 billion. New Gov. Rick Scott, inaugurated in January 2011, promised during his campaign to reduce prison costs by nearly $1 billion in coming years—nearly half of the state's current $2.4 billion annual corrections spending—and the Scott administration is likely to pursue partnering with the private sector to reduce costs in areas like inmate healthcare and other correctional services. Regarding the $1 billion of anticipated cuts, Scott administration spokesman Brian Burgess told *The News Service of Florida* in December 2010 that, "[w]e will do that and more by eliminating waste and improving efficiency […] Privatization isn't necessary for us to achieve that goal, but nothing is off the table while we are still in the review and planning phase."

In other Florida corrections news, Brevard County officials announced the privatization of misdemeanor probation-pretrial services in December 2010. The county is entering a three-year contract with Judicial Correction Services expected to save taxpayers approximately $1 million over the contract term. The vendor—which provides similar services for nearby Volusia and Osceola counties—will house staff at the Brevard County Jail Complex and another office in the Rockledge area. County Manager Howard Tipton told *Florida Today* in December that cost savings should total between $211,000 and $250,000 in fiscal year 2011, with savings of $400,000 in each of the final two years of the contract.

Part 6

Private Corrections Update

- Federal officials at U.S. Immigrations and Customs Enforcement (ICE) announced in August 2010 that they are working with CCA to ease the conditions of confinement at nine federal detention centers for non-criminal detainees as part of a larger reform of federal immigrant detention policies implemented by the Obama administration. Because detainees are being held for non-criminal civil immigration charges, federal authorities want to make the facilities less prison-like, including such changes as more colorful interior decoration, relaxed security procedures and the elimination of razor wire fences. Detainees will also receive an improved diet, will be allowed to wear civilian clothes and have increased contact with family members, among other policy changes. The changes will ultimately be implemented throughout the entire ICE system.

- The private corrections industry saw a major consolidation when two of the largest publicly held correctional service providers—The GEO Group and Cornell—finalized a merger in August 2010. Under the deal, GEO acquired Cornell at an estimated enterprise value of $685 million and will take on roughly $300 million in Cornell's debt. Prior to the merger, GEO operated 51 locations globally with 60,000 beds among its three business units, while Cornell operated 68 facilities with 21,000 beds. In a press release announcing the merger, GEO Chairman and Chief Executive Officer George Zoley noted, "[t]he combination of our two companies creates a company with revenues of approximately $1.5 billion, enhanced scale, diversification, and complementary service offerings." In a separate move later in the year, GEO announced the $415 million acquisition of Behavioral Interventions, Inc., a leading firm in the areas of compliance technologies, monitoring services and evidence-based supervision and treatment programs for community-based parolees, probationers and pretrial defendants. Behavioral Interventions is the largest national provider of comprehensive electronic monitoring services, tracking more than 60,000 offenders for approximately 900 federal, state and local correctional agencies located in all 50 states. The firm also provides community-based re-entry services for approximately 1,700 parolees on behalf of state and local correctional agencies at 26 nonresidential day reporting centers nationwide.

- CCA, the largest correctional management firm in the U.S., reported in February 2010 that it had achieved a systemwide American Correctional Association (ACA) accreditation score of 99.4% in 2009. Fourteen CCA correctional facilities were successfully audited in 2009, with

13 facilities achieving re-accreditations and one receiving its first-ever accreditation. Three CCA facilities achieved a perfect (100%) accreditation score in 2009: Crowley County Correctional Facility (Olney Springs, Colo.), Kit Carson Correctional Center (Burlington, Colo.) and New Mexico Women's Correctional Facility (Grants, N.M.). ACA accreditation audits occur once every three years through a three-day process of on-site operational review, and facilities must meet 100% of more than 60 mandatory standards and comply with 90% of approximately 480 non-mandatory standards to achieve accreditation.

- The **Alabama** state legislature approved a bill to buy a private prison in Perry County from LCS Corrections Services to renovate and expand to add additional state prison capacity. The state will issue $60 million in bonds to buy the Perry County Correctional Center.

- In late 2009, the **Alaska** Department of Corrections began transferring 800 inmates from an Arizona private prison to another private prison in Colorado where they will be housed for three years until the completion of a new in-state prison located in the Matanuska-Susitna (Mat-Su) Borough. Previously, the Alaskan inmates were housed in CCA's Red Rock Correctional Center in Eloy, Arizona at a $65 per diem (cost per prisoner per day). Under the new contract with GEO, these inmates are housed in the Hudson Correctional Facility in Hudson, **Colorado** at a per diem of $59, a $6 per prisoner per day savings totaling approximately $1.75 million a year. Price competitiveness was not the only reason, according to state officials; the Hudson prison's programs in areas like substance abuse, anger-management, education, re-entry and vocational training are very similar to those to be implemented in the new Mat-Su facility, the $240 million, 1,536-bed Goose Creek Correctional Center in Wasilla. Policymakers are currently considering the possibility of privatizing the new prison's operations upon its completion in 2012 after state corrections officials told a legislative subcommittee in February 2010 that privatization could save the state $6.5 million annually.

- Dissatisfied with progress in improving correctional health care to comply with a federal agreement, corrections officials in **Delaware** decided not to renew their three-year, $130 million contract with Correctional Medical Services for health care services. Instead, the state opted to break the contract into 10 smaller pieces focused on more specialized services and received bids from 24 firms to provide health care services. In May 2010, Delaware Correction Commissioner Carl Danberg announced that three new vendors will replace CMS in a series of two-year contracts: Correct Care Solutions will act as the general health care provider under a $29.8 million contract, MHM Services will provide mental health and substance abuse treatment under a $10 million contract, and Correct Rx Pharmacy Services will handle pharmacy operations under a $700,000 contract. Delaware entered an agreement with the U.S. Justice Department in 2006 to improve correctional health care in 2006 following a series of investigative reports by *The News Journal* that uncovered problems with health care delivery and high inmate death rates.

- **Georgia** is closing four public prisons that the Georgia Department of Corrections (GDOC) estimates will save more than $35 million a year. These facilities—located in Milledgeville, Mount Vernon and Hardwick—are the oldest and most costly in the state. To fill the gap, the state is adding bed space in private prisons and building new pods with 250 beds each at other state prisons. In July 2010, GEO announced that it had signed a contract with GDOC to finance, develop and operate a new $80.0 million, 1,500-bed correctional facility in Milledgeville under a 40-year lease. The project was initially awarded in February 2010 as a 1,000-bed facility, but the RFP allowed for the facility to increase at any time up to 2,500 beds. To address the need for additional system capacity, state officials expanded the facility to 1,500 beds during contract negotiations.

  In other Georgia news, CCA announced in September 2010 that GDOC awarded it a contract to manage up to 1,150 male inmates in the new CCA Jenkins Correctional Center, a $57 million facility in Millen to be financed, built, owned and operated by the company. CCA estimates the project will create up to 200 new jobs in Jenkins County. The company expects to complete the facility's construction in 2011 and will begin taking inmates in the first quarter of 2012. Also, CCA announced in 2010 that it was on schedule to open an expansion of the two prisons it operates for the state under a $25 million contract awarded in 2009. The two 750-bed expansions, in Nicholls and Alamo, are expected to generate 150 new jobs, 75 at each facility.

- **Hawaii** has partnered with private corrections management companies for over a decade to meet the needs of a state lacking the space or the resources to house all of its inmates in state prisons. However, the subject became contentious when State Auditor Marion Higa issued a report in December 2010 criticizing the Hawaii Department of Public Safety's management of a contract to house approximately 2,000 prisoners in out-of-state CCA prisons in Arizona. Higa's critique centered on the agency's reporting of cost and financial data and concerns about the agency's procurement processes and prison oversight. Higa called on the state's chief procurement officer to suspend the agency's contracting authority until it revises its internal policies and procedures and provides better training to management staff. Incoming Gov. Neil Abercrombie has vowed to stop exporting inmates out of state, but has yet to propose an alternate plan to develop new in-state prisons or implement other reforms to reduce the state's capacity needs.

- Corrections officials in **Hawaii** and **Kentucky** responded to allegations and lawsuits over sexual impropriety by prison staff at the CCA-run Otter Creek Correctional Center in Kentucky by removing over 200 female inmates from the facility and transferring them to other female facilities in their respective states. Further, in 2010, the Kentucky legislature passed Senate Bill 17, making sexual relations between jailers and prisoners a felony. The legislation would apply to workers in state prisons, private prisons contracting with the state, county jails and other detention facilities, and violators would be charged with statutory rape or sodomy.

- In March 2010, the American Civil Liberties Union filed a $155 million lawsuit against the **Idaho** Department of Corrections and CCA, alleging high rates of inmate-on-inmate violence and denial of medical services at the 2,000-bed Idaho Correctional Center, the state's first private prison. In November, Idaho's U.S. attorney told media that the allegations had prompted the U.S. Department of Justice to launch an investigation into possible criminal misconduct by facility staff. CCA replaced the facility's warden and assistant warden in early 2010 after complaints about the facility surfaced. Also, the state corrections agency announced in June that it had fined CCA over $40,000 in penalties and was requiring the firm to fix problems with drug and alcohol treatment programs identified in medical audits at the prison, including a reliance on unqualified drug and alcohol counselors and problems administering medical care. The company is working to correct identified deficiencies, and state corrections officials have noted that the agency was unaware of any inmates who had suffered injury or harm because of the violations.

  In other Idaho corrections news, MTC signed a five-year agreement with the Idaho Department of Corrections in 2010 to build and operate the Correctional Alternative Placement Program facility in Kuna, a new minimum-security, substance abuse treatment facility. The agency also announced that it is saving $525,000 annually on a new medical contract with Correctional Medical Services (CMS) to deliver healthcare to state inmates. Medical costs have been reduced from $12.45 to $12.15 per inmate per day, largely due to increased preventative care under the contract that began in July 2010.

- In August 2010, the **Indiana** Department of Correction (IDOC) announced an expansion of its current health care partnership with Correctional Medical Services, Inc. (CMS) to include substance abuse programming and services. The program aims to integrate mental health services with substance abuse programming—often co-occurring issues for offenders—and will develop an integrated system to track patients' medical, mental health and substance abuse records. IDOC Commissioner Edwin Buss noted in a press release that "[b]y combining services, the Department will be able to continue its award winning substance abuse services with the added benefit of improving the level of service to offenders, increasing their chances of returning to their communities as rehabilitated, law-abiding citizens." Under the terms of the partnership, IDOC's 92 current substance abuse counselors will be interviewed for employment with CMS.

  In other Indiana news, GEO announced in December 2010 that it would add a 500-bed expansion of the 2,524-bed New Castle Correctional Facility in New Castle, Indiana, a state facility managed by GEO on behalf of IDOC. GEO will fund and develop the $23 million expansion under a development agreement with the Indiana Finance Authority and will manage the expansion under an amendment to its existing management contract with the Department. The amendment extends the management contract term, previously set to expire in September 2015, through June 2030. Also, GEO announced in November 2010 that IDOC had selected it to manage the state's Short Term Offender Program at an existing state-owned facility in Plainfield, Indiana. GEO expects the facility to initially house approximately 300 inmates, rising to 1,066 inmates over time. GEO will manage the facility under a four-year contract with four one-year renewal option periods.

- In January 2011, **Kentucky** State Representative Brent Yonts (D-Greenville) asked state Attorney General Jack Conway to investigate whether or not Aramark Correctional Services may have violated its $12 million food service contract with the Kentucky Corrections Department by refusing to provide internal cost records to state auditors investigating the delivery of prison food services. An October 2010 audit claimed that Aramark refused to provide cost records sought by state auditors to help determine whether price adjustments were warranted and investigate claims of poor food quality. The company counters that it offered to provide auditors with detailed information on its costs for labor, goods and supplies, overhead and profits on the condition that the information be kept confidential, which auditors rejected. State Corrections Chief LaDonna Thompson told legislators in December that state officials had reviewed Aramark's contract and found no violations. Yonts has been a vocal critic of Aramark, claiming that inmate dissatisfaction with food quality prompted a riot at the Northpoint Training Center in 2009. However, a subsequent state investigation found that food complaints were a factor, but not a primary cause, of the riot. Yonts introduced a bill in the 2010 legislative session that would have canceled Aramark's contract, but the bill failed to pass.

- **Louisiana** Gov. Bobby Jindal is preparing for a $1.6 billion budget shortfall next year, and is reportedly considering the sale of two state-owned prisons to generate revenue. According to Corrections Secretary Jimmy LeBlanc, the state could sell the prisons in Allen and Winn parishes in a move that could generate over $70 million. Officials are also considering closing an inmate isolation unit at Louisiana State Penitentiary at Angola, which would save the state roughly $108 million. In other news, GEO announced in June 2010 that it had signed a new contract with the Louisiana Department of Public Safety and Corrections to continue managing the 1,538-bed Allen Correctional Center, a state prison in Kinder, Louisiana. The new, 10-year management contract will extend GEO's tenure at the facility—which it has operated since December 1990—through June 2020.

- GEO announced in June 2010 that it had signed a new contract with the **Mississippi** Department of Corrections to continue managing the 1,000-bed Marshall County Correctional Facility in Holly Springs. GEO has managed the prison since June 1996, and the new management contract will extend the term through August 2015. In other news, CCA's new $128 million Adams County Correctional Center began taking inmates in early 2010 under a contract with the Federal Bureau of Prisons to house over 2,500 federal inmates. In a March 2010 interview with the *Natchez Democrat*, facility warden Vance Laughlin described the prison's opening as "a very smooth activation in terms of getting the staff acclimated to the environment and accepting inmates." The Adams County facility is the company's fourth correctional facility in the state.

- In July 2010, officials in Las Vegas, **Nevada** issued a request for proposals for a consultant to study the feasibility and cost-effectiveness of privatizing the City of Las Vegas Detention Center.

- In October 2010, the **New York City** Department of Health and Mental Hygiene and Prison Health Services, Inc. (PHS) announced that it had reached an agreement in principle on a two-year contract to administer the provision of comprehensive medical, mental health and dental services for New York City Department of Correction inmates. PHS has been providing these services to approximately 12,000 inmates in the Rikers Island complex and Manhattan Detention Center since 2001, and the new contract would extend this partnership through the end of 2012. Elsewhere in New York State, **Onondaga County** officials signed a $24.6 million, three-year contract with Correctional Medical Care Inc. (CMC) in November 2010 to provide healthcare services at the county's Justice Center Jail, Jamesville Correctional Facility and Hillbrook Juvenile Detention Center, a move the county estimates will save approximately $150 million over the three-year term.

- In May 2010, **Ohio** State Senators Bill Seitz (R-Green Township) and Tim Grendell (R—Chesterland) introduced Senate Bill 269 to create a 15-member Prison Privatization Commission that would evaluate the state's current prison management contracts and develop a plan to transfer the operation and management of at least half of the state's other 29 prisons to private operators. At press time, the bill had not yet been heard in committee. Part of the impetus behind the bill is the cost-effectiveness of the state's two currently privatized facilities; a July 2010 article in Columbus's *The Other Paper* cited Ohio Department of Rehabilitation and Corrections data showing that the state's average daily cost per prisoner is $67.68, while MTC-run facilities in Grafton and Conneaut have per diems of $63.95 and $40.87, respectively.

  Recent political shifts may improve the outlook for privatization. Ohio Gov. John Kasich, inaugurated in January 2011, consistently stated during his campaign and transition that Ohio's budget crisis demands changes in the corrections system, including further privatization and sentencing reform. "Everything is on the table. Is it possible to have private companies run prisons, build prisons? Of course it is; we're looking at it," Kasich told *The Columbus Dispatch* in December. "But corrections reform is critical. It's one of the big cost sinks that we have." In January, Kasich chose private corrections consultant and former state prison warden and Deputy Corrections Director Gary Mohr to lead the Ohio Department of Rehabilitation and Correction.

- In March 2010, the **Tennessee** Supreme Court declined to hear CCA's appeal of a Tennessee Court of Appeals ruling that the company must comply with the state's open records laws. While significant, the ruling is limited, since it only applies to privately run correctional facilities operated on behalf of the state, not federal prisons or facilities in other states that the company owns.

- In February 2010, the **Tennessee** Department of Correction (TDOC) announced a three-year, $150 million contract with Correctional Medical Services, Inc. (CMS) to provide comprehensive healthcare services to over 18,000 TDOC inmates. Under the contract, CMS will provide medical, dental and pharmacy services at five state prisons, as well as coordinated care services (including physicians, dentists, pharmacy and off-site care) at seven prisons. A notable component of the initiative involves modernizing and expanding on the TDOC's legacy videoconferencing system to create a technology infrastructure to support the expanded use of telemedicine, allowing doctors and patients to interact remotely.

- In December 2010, U.S. Immigration and Customs Enforcement awarded Karnes County, **Texas** an Intergovernmental Services Agreement to house immigration detainees in a new 600-bed Civil Detention Center in Karnes City. The facility will be developed and operated by GEO under a subcontract with Karnes County and will be the first facility developed and operated for low-risk detainees. GEO will finance, develop and manage the $32 million facility, which is expected to open in late 2011. Also, MTC announced in March 2010 that it will continue to manage the 540-bed Willacy County Regional Detention Facility, extending its contract with the U.S. Marshals Service for five additional years in a $383 million agreement. Inmates at the facility receive rehabilitative programming that emphasizes business, personal finance, parenting and other social skills important to re-entry to society.

- Corrections officials in **Wyoming** announced the return of 270 state inmates previously held in out-of-state privately operated prisons in the wake of the opening of the Wyoming Medium Correctional Institution, a new, 720-bed, $126 million facility in Torrington.

- In January 2010, the **Vermont** Department of Corrections announced a new three-year contract with Correct Care Solutions to provide correctional health care and mental health services. According to state corrections officials, the new arrangement will cost less than what the state had been paying former medical provider Prison Health Services and mental health services provider MHM Correctional Services under separate contracts. In other Vermont news, state corrections officials announced in August 2010 that they were transferring up to 100 inmates from out-of-state, private prisons in Kentucky and Tennessee to the Franklin County Jail and House of Corrections—a county-run jail in Greenfield, Massachusetts—to save approximately $1 million and move inmates closer to home to ease their transition to release. The *Burlington Free Press* reported that Corrections Commissioner Andrew Pallito saw proximity and cost—not the performance of CCA, which operates the Kentucky and Tennessee facilities—as the main drivers for the switch, citing a memo in which Pallito noted that "While CCA has done a good job in providing out-of-state beds, we welcome this opportunity to diversify our out-of-state placement options and reduce our reliance on one contractor."

- In January 2011, the **Wisconsin** Department of Corrections' Division of Community Corrections issued an Intent to Award Contract notice to Genesis Behavioral Health Services, Inc. to provide anger management group therapy services to offenders with a history of criminal and/or physical/verbal aggression.

Part 7

Leveraging the Power of PPPs in Correctional Rehabilitation

An April 2010 article by Washington State University's Kevin A. Wright in the *Journal of Offender Rehabilitation* suggests that long-running academic debates over the pros and cons of correctional privatization may be missing a larger point. Wright asserts that because privatization in corrections is here to stay, a more productive focus of academic and professional inquiry lies in the opportunity to leverage the power of privatization and performance-based contracts to improve rehabilitation and increase the use of proven methods of reducing recidivism and successfully reintegrating offenders back into society.

Wright notes that the existing academic literature on correctional privatization presents a mixed bag of conflicting research—largely focused on attempts to empirically validate the relative costs and quality of public and private prisons—that is "often plagued with methodological problems that leave [the research] conclusions and implications suspect." Instead, Wright suggests that the growth in correctional privatization represents the opportunity "to reassess the dominant correctional philosophy in America" and take advantage of the contract mechanism to promote "what works" in offender rehabilitation and programming. According to Wright, "[p]rivate prisons [present] the unique opportunity for innovation in corrections through the use of contracts that emphasize principles of effective intervention and programs that work."

In Wright's view, all too often in correctional privatization "the promise of innovation is stifled and private prisons instead often resemble their public prison counterparts," but this mirror effect would be minimized "if contract stipulations and the financial motives tied with them were bonded to rehabilitation principles." Surveying the literature on rehabilitation and recidivism, Wright cites three key characteristics of successful rehabilitation programs:

- They align the intensity of services with the level of offender risk (more intensive programming for higher risk offenders, and vice versa);
- They focus on traits and behavior known to influence crime and re-offending;
- They deliver services "in a manner consistent with the learning styles of offenders."

Rehabilitation programs along these lines can be built into correctional PPP contracts and serve as a central basis for measuring contractor performance and compensation, and contracts can give operators the freedom to explore additional methods for rehabilitating offenders. Wright suggests that “the incentives […] built into contracts should therefore reflect the principles of effective intervention and correctional program integrity that are correlated with recidivism.” As one example, Wright suggests that contracts could tie contractor compensation to the use of programs that produce high scores on the Correctional Program Assessment Inventory (CPAI), a measurement tool that has been demonstrated to effectively predict the rehabilitative efficacy of programs. Further, the objective nature of the CPAI would eliminate the persistent challenge of methodological inconsistencies in the collection and analysis of recidivism data.

Wright concludes that "the privatization of prisons can serve as the vehicle that the rehabilitation effort has searched for in its revivification [...] In essence, it appears that private prisons and the rehabilitative ideal would be the perfect marriage for corrections."

The United Kingdom may provide a useful example lending support to Wright’s analysis, as it has shifted from a predominantly public system to one in which both public and private sector providers deliver community corrections services. Notably, it relies on performance-based contracts with public and private providers alike that tie payments to precise benchmarks and outcome-based measures of recidivism and public safety. So far, the use of PPPs in community corrections is having a positive effect on rates of recidivism in the U.K.; a 2009 study by the Wisconsin Policy Research Institute found that the country’s recidivism rate had decreased 10.7%, from 43.7% of total offenders released in 2000 to 39% in 2006.

Part 8

Corrections 2.0: A Proposal to Create a Continuum of Care in Corrections through Public-Private Partnerships

State fiscal crises are driving change in correctional systems. In recent years, states like Texas, Rhode Island and California have begun transformational shifts in corrections to address some major challenges, including reducing expenditures amid budget pressures, targeting chronically high recidivism rates and avoiding major capital expenditures on new prisons and other facilities. By applying strategies like expanding residential and community-based treatment and diversion programs, adopting sentencing reforms and increasing the use of out-of-state privately operated prisons, states are trimming the costs of incarcerating offenders and focusing on decreasing recidivism rates to reduce the number of offenders. In short, fiscal crises are presenting an opportunity for state policymakers and corrections administrators to "think outside the box" in transforming and right-sizing correctional systems.

Current government correctional systems can be characterized as a fragmented collection of facilities and services—including prisons, halfway houses, probation systems, home monitoring, programming and rehabilitation—and offenders move between these facilities and services with little continuity of knowledge of their particular history and rehabilitation progress, leading to little accountability and poor results for the successful return of these individuals to society. Further, the facilities and services that comprise current systems are usually the legacy of policy decisions made years—even decades—ago and may not comport with the facility and service mix needed to improve performance of the system today and into the future. Given the disjointed nature of the current system, it should come as no surprise that recidivism is a persistent challenge, with offenders in most states more likely to return to prison than remain in free society upon release.

Services designed to reduce recidivism are poorly coordinated across an inmate's entire experience with the justice system. Identifying solutions that might work for an inmate may begin as early as during the trial, but that information does not pass on into evaluations conducted once an inmate enters a secure facility. Likewise, what programs the inmate may participate in while serving his sentence are typically not coordinated with those in pre-release facilities and certainly not with post-release supervision.

Applying a *continuum of care* approach within a state correctional system could solve this challenge and maximize programming's effects on recidivism. It would coordinate and link evaluations, programs and resources for an inmate across all facilities and levels of care. So once an inmate is evaluated and a programming plan is established, all information about the success or failure of his programs, modifications and the resources for the programs he participates in follow the inmate to whatever facility or level of care he goes to, until he leaves the justice system. This accomplishes several things:

- Coordinating programs over the entire span of time the inmate is in the justice system maximizes the effect of the care and programming he receives. Piecemeal programming dramatically reduces the effect. When programming works in concert with previous care and moves deliberately through a succession of goals, the results can be dramatically improved.

- Successful programming requires continuous evaluation and modification when necessary. But typically each time an inmate moves to a new facility or to a new level of care, the process begins all over again, or he is plugged into what programs exist there with little regard to his needs or his previous programming plan. Preventing these disruptions and even sudden changes in programming is crucial to success, and continuum of care is the proper tool to manage that.

- A continuum of care approach would use resources much more effectively. First, resources are customized to each inmate and follow the inmate rather than being top loaded into generic, facility-based programs regardless of inmates' changing needs. Second, spending a lot of resources on uneven, uncoordinated programming for an inmate across various facilities and levels of care delivers a poor return on expenditures—the results fail to justify the high costs of programming. Coordination across a continuum of care would maximize the value of every tax dollar spent.

- By using only those programs that serve the goal, the continuum of care uses fewer facilities, resulting in better use of resources. Typical programming plans are based on available facilities and services targeting general inmate needs, rather than individual inmates' specific, evaluated needs. Better planning and programming through a continuum of care would place inmates in the right facilities at the right time, targeting the specific programming they need to get the maximum effect. Ideally this allows various specialized programming to be concentrated rather than dispersed across facilities, and inmates to be allocated accordingly to get best effect from the programming and the most efficient use of resources.

The current correctional system structure is antithetical to the continuum of care approach because the various aspects of incarceration are not designed to coordinate with each other. However, public-private partnerships (PPPs) could provide integrated facilities and services for an organized continuum of care. A PPP that included all levels of care for, say, a region of a state—including post-release services—would give the private manager the flexibility and the incentives to provide a real continuum of care, coordinating programming and management decisions to optimize outcomes. The private partner or partners could consolidate and reorganize facilities and programs to ensure inmates are always in *the right place at the right time for the right programs,* continuously evaluating, modifying and coordinating programming as appropriate. Further, contract incentives based on programming success and even recidivism rates would align the common goals of the general public and private partners to reforming more offenders, as described in the following section.

A. The Proposed Model: PPPs for a Corrections Continuum of Care

States are already making extensive use of competition in corrections, though on a piecemeal, unintegrated basis. Over 30 states house inmates in privately operated correctional facilities, either in state or out of state. Private involvement in community corrections—such as operating low-security work-release or halfway-house facilities—is a long-standing tradition in the United States. Many states have outsourced some or all of the provision of correctional health care, food, transportation and other services essential to successful system operation. In addition, state governments have traditionally let contracts with for-profit and nonprofit providers for services that include substance abuse counseling, assessment and treatment of sexual offenders, and vocational training and placement.

The next evolution in correctional PPPs will involve putting these pieces together in a more integrated fashion to develop a continuum of care in corrections and reorient the system toward performance and value per dollar spent. Rather than operating individual facilities and programs independently, a continuum of care PPP would provide the delivery of most or all correctional services within an entire state department of corrections (DOC) region, including:

- the operation of prisons, community corrections facilities, halfway houses, work camps and similar facilities;
- the operation of reception/intake centers;
- probation and parole services;
- substance abuse treatment, education, rehabilitation, vocational and other programming for offenders;
- correctional medical, behavioral health and dental care; and
- building maintenance, custodial, transportation and other internal correctional system services.

To initiate a continuum of care PPP, a state DOC would issue an "invitation to negotiate" asking potential private partners to submit their qualifications and a 10-year conceptual plan to provide an integrated continuum of care within a DOC region (or regions). Proposals would be evaluated based on the respondent's ability to maximize the use of state resources, deliver cost savings, increase or decrease the number and operation of existing facilities as necessary, and implement best practices in correctional care, service delivery and programming. The PPP could also be designed to exclude or limit the private sector operation of certain maximum security prisons or units (e.g., death row) or other sensitive facilities for which policymakers may prefer ongoing public sector operation. The PPP could also give the DOC the flexibility to further subdivide regions into smaller districts if necessary to enhance the likelihood of competition and ultimate success for the continuum of care model.

A viable structure for a region-level continuum of care PPP would be a 10-year, performance-based contract designed not only to ensure a high quality of care in adherence with nationally recognized standards (e.g., accreditation of facilities, health care, etc.), but to also place a contractual responsibility on the private operator for demonstrably reducing recidivism in the region over time. Driving change in any system can take years, but a 10-year contract timeframe provides a reasonable window within which targeted recidivism rate reductions could be achieved by the private operator and validated by the state. However, the contract should also facilitate the ability for the state and its private partner to periodically amend terms based on changing conditions, lessons learned or unanticipated needs that may arise early during contract implementation.

It is important to note that any one individual corrections management company will not offer every single service that would be required under a continuum of care PPP. Rather, the global experience in PPPs in transportation and social infrastructure shows that companies typically partner with other firms to provide specialized services not available in-house, adopting a team approach by bidding together as one consortium for a PPP procurement.

To move forward, policymakers would need to grant statutory authority for a DOC to undertake the necessary internal reorganization and implement regionalized, continuum of care PPPs. Depending on the state, number and character of DOC regions and other regional considerations, policymakers may find it advantageous to consider implementing this approach in multiple regions in a pilot implementation, partnering with different operators in each to maximize competition and mitigate implementation risks from the DOC's vantage point. Piloting the continuum of care PPP model in one or two regions would keep the implementation limited and manageable in scope while still applying it at a scale large enough for private operators to realize significant economies of scale in service delivery. Further, state DOC officials would have the flexibility to modify implementation as needed to improve the model midstream, incorporating lessons and best practices learned from a comparative analysis of multiple vendors' performance and outcomes.

Though no state has yet adopted a continuum of care PPP model for correctional systems, there is certainly precedent in other states for large-scale adoption of correctional PPPs. For example, New Mexico contracted out 45% of its correctional system under the administration of former Gov. Gary Johnson, and a 2003 study by the Rio Grande Foundation surveyed prison expenditures in 46 states and found that public sector facilities in New Mexico were spending $9,660 dollars per prisoner per year less than peer states that had no privately operated correctional facilities. As former Governor Johnson explained in a 2010 Reason.tv interview:

> *[i]n New Mexico we had over 600 prisoners housed out of state, we were under a federal court order—federal consent decree—regarding our prisons and how they should be run. I ended up—as a result of a legislature that was not wanting to address this issue—ended up privatizing over half of the state's prisons. Comparing apples to apples, the private side produced the same goods and services for two-thirds the price. To me that was good government.*

B. Improving Performance

Expanding private involvement in providing services to inmates throughout incarceration and after release can bring a new wave of innovation, as private correctional management companies have a well-established track record in providing effective rehabilitation, education and post-release programs aimed at reintegrating inmates into the community and reducing recidivism rates.

Shifting to a continuum of care PPP model and contracting for recidivism reduction would facilitate the development of more coherent, individualized rehabilitation plans that follow offenders as they move throughout the system, from reception center to prison to home. The private operator would be required to tailor rehabilitation programs to the individual and would be contractually accountable for ensuring high performance in tracking and working with offenders to successfully move them through the corrections cycle and back to society.

Further, under the continuum of care PPP model, the contract would be structured with an explicit focus on reducing recidivism. In the proposed PPP model, a contractual mandate to reduce recidivism would drive companies to innovate in areas like drug and alcohol rehabilitation therapy, behavioral programs, and educational and vocational training. These programs not only make the prisons themselves safer but also save even more taxpayer dollars by lowering crime rates, judicial costs and further incarceration—and the private sector is often faster to embrace innovations in evidence-based service delivery methods. Overall, contracting with recidivism reduction as a central aim would properly align private sector economic incentives with public sector performance goals.

While reducing recidivism, PPPs can also improve system efficiency by controlling legal liabilities, reducing use of overtime, managing to prevent injuries and workers' compensation liabilities, and improving labor productivity. Moreover, as the aforementioned Vanderbilt University study suggests, private sector competition drives efficiency in the public sector corrections marketplace, because government facilities are pressured to become more efficient and to provide better services to compete with private corrections management companies. In other words, introducing privatization creates a competitive "tension in the system" that acts as a rising tide to improve the performance of both the public and private sector.

Another major benefit of a continuum of care PPP model is the inherent flexibility to move personnel and facilities around in a nimble way that improves system efficiency, while also giving the private partner the ability to quickly adapt and tailor an individual's rehabilitation needs based on changing circumstances. It is difficult for many state corrections agencies to operate in this fashion, given inflexibility in personnel rules and operating policies and procedures.

Private partners would be required to implement and maintain state-of-the-art tracking systems and a comprehensive electronic database to follow offenders throughout the continuum, from intake to prison to post-release rehabilitation and reintegration into the community. This system would track an inmate's progression throughout the continuum of care, ensuring a continuity of knowledge and tracking the provider's success in rehabilitating and reintegrating offenders post-release.

Further, because their contracts are tied to performance, private operators would ensure that rehabilitation, educational, vocational and substance abuse programs are provided throughout the continuum of care within a region, thus maximizing the use of resources and enhancing the likelihood of successfully reintegrating offenders into the community and reducing recidivism rates.

C. Keys to Success

The continuum of care PPP model described in this section represents a new approach to corrections in the United States. However, because of the novel nature of the approach, ready-made templates for implementing continuum of care models do not yet exist and will require proper due diligence at every stage of program design and implementation. Some important keys to successful implementation include:

- ***Collaboration between the state DOC and the private sector:*** The collaborative development of a framework for the continuum care PPP between the state DOC and the private sector is a key to ultimate successful implementation of this innovative model. The state DOC should work collaboratively with the private sector to develop the continuum of care PPP framework, set measurable metrics and objectives, and craft a comprehensive implementation plan that combines private sector innovation and effective government oversight.

- ***Defining cost and performance metrics***: Embracing continuum of care PPPs in corrections would be a major step forward in leveraging the private sector to effect systemic change in a state corrections agency and better performance at rehabilitating criminals. But to know what outcomes to contract for, the states will need a proper assessment of where they currently are and where they want to go.

Correctional systems in many states lack fundamental accountability and transparency. Because they lack a robust performance-based approach to measuring outcomes and results in the public sector, it is difficult—if not impossible—to get an accurate accounting of operational costs and performance at the individual facility level, much less across a system. This makes it difficult for state officials to answer even simple questions like, "how much does it cost to change a light bulb at State Prison X versus State Prison Y?"

The inability to answer these sorts of questions suggests that the officials and policymakers in charge of the corrections system may not have a clear sense of *what an efficient prison even is*, given that what is not measured cannot be known. Without a clear sense of what the goal is, it is unsurprising that states are experiencing high recidivism rates.

For successful implementation of continuum of care PPPs, state DOC officials will need to undertake the proper upfront due diligence necessary to establish an accurate cost accounting at the facility level, evaluate how each facility is performing across a variety of service delivery metrics, and derive a clear and meaningful set of performance targets and desired outcomes that can be operationalized and incorporated into a PPP contract. Not only will this maximize a PPP's likelihood of success, but this process would help policymakers better distinguish between success and underperformance across all state facilities, whether operated by public or private entities.

D. Continuum of Care PPP Example: Florida

As one of the largest state correctional systems, and one that already makes extensive use of PPPs in corrections, Florida provides a useful model for framing the cost savings benefits a state might realize through the use of correctional continuum of care PPPs.

With an inmate population of over 102,000 inmates, Florida has the third largest correctional system in the nation after California (174,000) and Texas (155,000). The state is responsible for overseeing the operation of 147 correctional facilities across four regions statewide that include prisons, work camps, treatment centers and work release centers. Of the state's 63 prison facilities, seven (or 11%) are currently operated under PPPs with private corrections management firms. Additionally, the state is responsible for overseeing over 151,000 offenders under active community supervision.

As a hypothetical model, of all of the Florida Department of Corrections (FDOC) regions, Regions I and IV would be logical choices to pilot a continuum of care PPP due to their already extensive use of privatization today. FDOC Region I, which covers the Florida panhandle, currently houses nearly 15% of its inmates in private prisons today, while FDOC Region IV, which covers south Florida, houses nearly 13.5% of its inmates in private prisons (see Table 5) and has partially privatized the delivery of correctional healthcare services.

Cost savings through correctional PPPs typically range from 5% to 15%, but since current Florida law requiring all private prison contracts to achieve a minimum 7% cost savings as a mandatory condition of approval, it was assumed that this would represent the minimum level of cost savings private corrections firms would be required to achieve in a continuum of care PPP.

However, given that a 7% cost savings level would be the minimum eligible bid, bidder competition would be expected to drive the actual contracted cost savings higher. Even though a 15% cost savings would be a realistic high-end estimate of savings based on current state experience (see discussion in previous section on cost savings through correctional PPPs in Texas and other states), a more conservative range of 7% to 10% cost savings was assumed for discussion purposes.

Table 5: Estimated 10-Year Continuum of Care PPP Cost Savings, FDOC Regions I & IV

	FDOC Region I	**FDOC Region IV**	**Combined FDOC Regions I & IV**
Number of Correctional Facilities	37	34	71
Inmate Population (October 2010)	32,960	21,028	53,988
Inmate Population Held in Privately Operated Facilities	4,905	2,829	7,734
% of Inmate Population Held in Privately Operated Facilities	14.9%	13.5%	14.3%
Estimated Annual Correctional Facilities Cost	$545,572,731	$367,795,601	$913,368,331
Offenders under Community Supervision	36,366	37,958	74,324
Estimated Annual Community Corrections Cost	$51,700,601	$51,735,165	$103,435,766
Total Estimated Annual Cost	**$597,273,332**	**$419,530,765**	**$1,016,804,097**
Estimated Continuum of Care PPP Cost Savings (7%)	$41,809,133	$29,367,154	$71,176,287
Estimated Continuum of Care PPP Cost Savings (10%)	$59,727,333	$41,953,077	$101,680,410
Total Estimated 10-Year Cost	**$5,972,733,317**	**$4,195,307,654**	**$10,168,040,971**
Estimated 10-Year Continuum of Care PPP Cost Savings (7%)	**$418,091,332**	**$293,671,536**	**$711,762,868**
Estimated 10-Year Continuum of Care PPP Cost Savings (10%)	**$597,273,332**	**$419,530,765**	**$1,016,804,097**

Sources: Number of Correctional Facilities: derived from Florida Department of Corrections, Annual Statistics for Fiscal Year 2008-2009, http://www.dc.state.fl.us/pub/annual/0809/facil.html, (accessed 12/16/2010). Inmate Population: Florida Department of Corrections, "End-of-Month Florida Prison Populations by Facility: October 2010," Inmate Population by Facility for Fiscal Year 2010-2011, http://www.dc.state.fl.us/pub/pop/facility, (accessed 12/16/2010). Offenders Under Community Supervision: Florida Department of Corrections, Bureau of Research and Data Analysis, Florida's Community Supervision Population--Monthly Status Report (October 2010), pp. 5-8, http://www.dc.state.fl.us/pub/spop/2010/10/1010.pdf, (accessed 12/16/2010). Estimated Annual Correctional Facilities Cost & Estimated Annual Community Corrections Cost: Author's calculation (see Appendix B of Corrections 2.0: A Proposal to Create a Continuum of Care in Corrections through Public-Private Partnerships, available online at http://reason.org/news/show/corrections-continuum-of-care-ppp).

According to the analysis, shifting to a continuum of care PPP model in both Regions I and IV would be expected to reduce the annual costs of correctional facility operation and community corrections by $71.2 million to $101.7 million per year. Assuming 10% cost savings, implementing the proposed continuum of care PPP model could lower Florida's state corrections budget by $419 million to over $1 billion over a ten-year period, depending on whether officials chose to pursue PPPs in one region or both.

Potential savings could even be higher. The 10-year cost savings estimates are based on holding current annual costs constant each year, ignoring the likelihood of public sector cost inflation over a decade-long period. Also, an agency's budget normally does not include various central administrative and support expenses. For example, some state prison budgets do not include the cost of some medical services, legal services, risk management or personnel administration services, many of which are handled on a central accounting basis by other state agencies. Even within an agency budget, many costs may be borne by a central office that should actually be allocated to specific service units, facilities, etc. in a proper accounting scheme. To the extent that certain costs of correctional operation may fall outside of FDOC's agency budget, potential cost savings may be understated.

While a more thorough analysis of potential cost savings possible through continuum of care PPPs would require a full accounting of facility-level and service-level operating costs within each region, the estimates in this analysis offer a compelling reason for policymakers in Florida and other states to consider embracing the approach.

E. Conclusion

In the current fiscal environment, the potential to achieve cost savings at this scale while improving offender outcomes should compel policymakers in Florida and other states to seriously consider adopting a continuum of care in corrections through PPPs. PPPs already have a long and successful track record at helping correctional agencies control costs, deliver high-quality inmate rehabilitation services, safely operate correctional institutions and—ultimately—curb recidivism and improve correctional outcomes. Extending the PPP model to create a continuum of care would better orient the system toward high performance and ensure that offenders are always in *the right place at the right time for the right programs* to maximize the likelihood of a successful return to society.

The above is an excerpt from Reason Foundation and Florida TaxWatch's January 2010 policy brief, Corrections 2.0: A Proposal to Create a Continuum of Care in Corrections through Public-Private Partnerships*, available online at http://reason.org/news/show/corrections-continuum-of-care-ppp.*

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